

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-against- :

KENNETH SCHLUETER, :

Defendant. :

**ORDER FOR EXAMINATION
AND HEARING TO DETERMINE
MENTAL COMPETENCY**

: 07 Cr. 189 (AKH)
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X

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ALVIN K. HELLERSTEIN, U.S.D.J.:


The defendant, Kenneth Schlueter, refused to appear voluntarily at the pretrial conference of April 25, 2007. When later brought to Court on the same date, the Government moved for a psychiatric examination and subsequent hearing to assess Schlueter's competence—his ability to understand the nature and consequences of the proceedings against him and, in particular, his ability to assist properly in his defense. 18 U.S.C. §§ 4241(a)-(d), 4247(b)-(d). Schlueter, appearing *pro se*, indicated that he would not cooperate with any such hearing and, on this basis, I declined to order such a hearing. Upon further reflection, in light of Schlueter's twice having refused to attend court appearances except by order of compulsion by the United States Marshals, his twice having discharged successive appointed counsel, and his own unresponsive and lengthy comments in court, and upon my own motion, *id.* § 4241(a), I order as follows:

1. Defendant is committed to the custody of the Attorney General for a period of not more than thirty days, for placement in the nearest suitable facility, at which he will undergo a psychiatric evaluation, and from which there will issue a psychiatric report. 18 U.S.C. §§ 4241(b), 4247(b)-(c).

2. The designated examiner shall file with the Court, with copies to be provided to standby counsel for Defendant and to the attorney for the Government, a report conforming to the requirements of Section 4247(c), which include, inter alia, a diagnosis and opinion regarding Defendant's ability to (1) understand the nature and consequences of the proceedings against him and (2) assist properly in his own defense. 18 U.S.C. § 4247(c).
3. The pretrial conference previously scheduled for May 17, 2007 is hereby adjourned. Upon completion of the examination and receipt of the examiner's report, the Court will set a hearing, at which Defendant is to be represented by standby counsel, for purposes of evaluating Schlueter's competence to stand trial pursuant to 18 U.S.C. §§ 4241(c)-(d), 4247(d).
4. Pursuant to 18 U.S.C. § 3161(h)(1)(A), and time previously having been excluded to May 17, 2007, time will continue to be excluded until such competency is held.

SO ORDERED.

Dated: May 7, 2007
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge